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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,128	09/10/2004	Patrizia Melpignano	APV31817	8838

24257 7590 01/16/2007

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EXAMINER	
REHM, ADAM C	

ART UNIT	PAPER NUMBER
2875	

MAIL DATE	DELIVERY MODE
01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/507,128	Applicant(s) MELPIGNANO ET AL.	
	Examiner Adam C. Rehm	Art Unit 2875	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

ALLAN CARIASO
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant asserts the following:

1. Applicant appears to argue that because the lenses of BRASS is moveable and/or used to focus on a target area, the MADIGAN-BRASS combination does not read on the claimed invention. However, BRASS is only employed to evidence the obviousness of providing a light source with its optical axis laterally shifted from the central axis of a lens in order to manipulate and direct light as desired. Whether the BRASS lens is moveable and the precise purpose of the lens is not irrelevant.

2. Applicant argues that MADIGAN and BRASS involve different technological fields and are therefore not analgous art. However, Examiner notes that both references deal directly with Class 362: Illumination. As such, Examiner respectfully disagrees.

3. Applicant argues size variations between the claimed invention and BRASS are different. Examiner notes that BRASS is not utilized to demonstrate the obviousness of size, but is instead utilized to demonstrate the obviousness of providing a light source with its optical axis laterally shifted from the central axis of a lens in order to manipulate and direct light as desired.

4. Applicant asserts that the fundamental combination of MADIGAN and BRASS is flawed. Examiner respectfully disagrees since BRASS clearly teaches the deficiency of MADIGAN, i.e. the laterally shifting of the lens to manipulate light as desired.

5. Applicant presents a number of arguments in regard to Claims 6, 7, 22 and 23. Since the claims depend from Claim 1, they are rejected by the references applied to claim 1, i.e. MADIGAN and BRASS. Applicant argues that the values of the claimed invention are significantly lower than measurements of MADIGAN and that reducing the size of a microlens requires reducing the size of a light source (OLED diameter). Examiner respectfully submits that this concept is notoriously known in the art. Not only are changes of size, i.e. mere scaling up [down] or a prior art process well within the skill level of one having ordinary skill in the art, but discovering the optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 205 USPQ 215.

6. Applicant argues that the method claims should be afforded patentable weight. However, Examiner notes that the device formed by these method claims is rejected by MADIGAN and BRASS.